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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,038	12/11/2003	Jonathan T. Zempel	LOT920030019US	8720
45544 7590 01/11/2008 HOFFMAN, WARNICK & D'ALESSANDRO LLC 75 STATE ST 14TH FLOOR ALBANY, NY 12207			EXAMINER BETIT, JACOB F	
			ART UNIT 2164	PAPER NUMBER
			MAIL DATE 01/11/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/734,038	Applicant(s) ZEMPEL, JONATHAN T.	
	Examiner Jacob F. Bétit	Art Unit 2164	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 14 November 2007 has been entered.

Remarks

2. In response to communications filed on 14 November 2007, claims 1, 3, 9, 14, and 18 are amended per applicant's request. Claims 1-20 are presently pending in the application.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 14-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The applicant's invention appears to be directed to a system that is made of only software instructions. Software instructions cannot be fit into one of the four categories of invention and therefore this claim is not statutory. Software instructions are not a series of steps or acts and thus is not a process. Software instructions are not a physical article or object and as such is not a machine or manufacture. Software instructions are not a combination of substances and therefor not a composition of matter.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Redmond et al. (U.S. patent application publication No. 2002/0095401 A1).

As to claim 1, Redmond et al. teaches a method of tracking data, the method comprising:
receiving a request from a client, wherein the request is at least one of: providing update data for a tracked data item or requesting data for the tracked data item (see paragraphs 0040-0041);

selecting a handler based on an identification of the particular tracked data item (see paragraph 0042);

obtaining response data from a data application based on the tracked data item (see paragraph 0050);

generating a response based on the response data using the handler (see paragraph 0055-0056);

storing the response in a recordable medium (0056, where it is implicit that if a response is transmitted to a client, the client will store it in some kind of memory when it is received, further it is implicit that the message exists somewhere in memory before it is transmitted).

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As to claim 2, Redmond et al. teaches further comprising providing the response to the client (see paragraph 0056).

As to claim 3, Redmond et al. teaches wherein the selecting step is further based on an identification of the particular client (see paragraph 0044).

As to claim 4, Redmond et al. teaches wherein the obtaining step includes:
retrieving a trackable object associated with the tracked data item (see paragraph 0042);
and
providing the trackable object to the data application (see paragraph 0045-0047).

As to claim 5, Redmond et al. teaches wherein the obtaining step includes:
retrieving at least one measurable objective associated with the tracked data item (see paragraph 0035 and paragraph 0040); and
providing the at least one measurable objective to the data application (see paragraph 0040).

As to claim 6, Redmond et al. teaches wherein the generating step includes:
obtaining format data based on a response format (see paragraph 0041); and
formatting the response data using the format data (see paragraph 0043).

As to claim 7, Redmond et al. teaches wherein the format data defines a predefined tracking standard (see paragraph 0042).

As to claim 8, Redmond et al. teaches wherein the generating step includes:
obtaining client data based on the client (see paragraph 0050); and
formatting the response data using the client data (see paragraphs 0050-0052).

As to claim 9, Redmond et al. teaches a method of tracking data, the method comprising:
receiving a request from a client, wherein the request is at least one of: providing update data for a tracked data item or requesting data for the tracked data item (see paragraphs 0040-0041);

selecting a handler based on identifications of the particular tracked data item and the particular client (see paragraph 0042);

obtaining response data for the tracked data item from a data application (see paragraph 0050);

generating a response based on the response data using the handler (see paragraph 0055);
and

providing the response to the client (see paragraph 0056).

As to claim 10, see the citations directed to claim 4 above.

As to claim 11, see the citations directed to claim 5 above.

As to claim 12, see the citations directed to claim 6 above.

As to claim 13, see the citations directed to claim 8 above.

As to claim 14, Redmond et al. teaches a computer system for tracking data, the computer system comprising:

at least one handler for processing a request that is at least one of: providing update data for a tracked data item or requesting data for the tracked data item (see paragraphs 0040-0042);
and

a management system for receiving the request from a client and selecting one of the at least one handlers based on an identification of the particular tracked data item (see paragraph 0042);

wherein the selected handler obtains response data for the tracked data item, generates a response based on the response data, and stores the response in a recordable medium (see paragraphs 0050 and 0055-0056).

As to claim 15, Redmond et al. teaches further comprising a data application for providing the response data to the selected handler (see paragraph 0056).

As to claim 16, Redmond et al. teaches further comprising a client system for providing client data based on the client (see paragraph 0044).

As to claim 17, Redmond et al. teaches further comprising a format system for providing format data based on a predefined tracking standard (see paragraph 0042).

As to claim 18, Redmond et al. teaches a program product stored on a physical recordable medium for tracking data, which when executed comprises:

program code for receiving a request from a client, wherein the request is at least one of: providing update data for a tracked data item or requesting data for the tracked data item (see paragraphs 0040-0041);

program code for selecting a handler based on identifications of the particular tracked data item and the particular client (see paragraph 0042);

program code for obtaining response data for the tracked data item from a data application (see paragraph 0050);

program code for generating a response based on the response data using the handler (see paragraph 0055); and

program code for providing the response to the client (see paragraph 0056).

As to claim 19, Redmond et al. teaches further comprising: program code for retrieving at least one of:

a trackable object and at least one measurable objective associated with the tracked data item (see paragraph 0035); and

program code for providing the at least one of: a trackable object and at least one measurable objective to the data application (see paragraphs 0035 and 0040).

As to claim 20, Redmond et al. teaches further comprising:

program code for obtaining format data based on a response format (see paragraph 0041);
program code for obtaining client data based on the client (see paragraph 0050); and
program code for formatting the response data using the format data and the client data
(see paragraphs 0043 and 0050-0052).

Response to Arguments

7. Applicant's arguments filed 14 November 2007 have been fully considered but they are not persuasive.

In response to the applicant's arguments that "a computer system necessarily includes hardware", the arguments have been considered, but are not deemed persuasive. The applicant in the remarks makes the statement that "a computer system" is "at least one computer". While a computer system can be at least one computer, it also could be a system that is contained within at least one computer. One example of such a computer system would be a database management system which is a software system that runs on a computer. In this instance, a computer system is a system that contained within at least one computer.

In response to the applicant's amendment of claim 18 to recite a "physical recordable medium", the examiner believes that the applicant is now claiming a physical *storage* medium as disclosed in paragraph 0017 of the specification and therefore the rejection of claims 18-20 under 35 USC §101 has been withdrawn. If the applicant believes that physical recordable medium would also include any sort of transmission medium, the applicant is invited to make comments in that direction in response to this office action.

In response to the applicant's arguments that Redmond does not disclose "selecting a handler based on an identification of a particular tracked data item included in a request received from the client" and "selecting the handler based on identifications of the particular tracked data item and particular client", the arguments have been considered, but are not deemed persuasive. Redmond teaches selecting a handler based on how the data is stored. When a handler is being chosen it is selected based on what data item is currently being stored. It is noted that the claims are not claiming that a different kind of handler is being selected for each particular tracked data item nor do the claims point out the differences between the particular data items and the handlers being selected. The claims merely state that some kind of selection for a handler is being made based on the data item. The claims do not go into the logic of this selection process. This is also the case when a selection is made based on the "particular client". The applicant "notes that multiple clients may use the same product", but as pointed out before with respect to "particular tracked data items", there is nothing stated in the claims that a particular client uses a different handler than every other client.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob F. B  tit whose telephone number is (571) 272-4075. The examiner can normally be reached on Monday through Friday 9:30 am to 5:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on (571) 272-4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

jfb
7 Jan 2008

A handwritten signature in black ink, appearing to read "C. Rones".

CHARLES RONES
SUPERVISORY PATENT EXAMINER